

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

Appointment of an interim board of education replacement member to the Bath County Board of Education during the suspension of Bath County Board of Education member William Boyd, who was suspended for 90 days by the KBE on September 14, 2011 (suspension effective September 15, 2011).

Applicable Statute or Regulation:

KRS 156.132, 156.136

Action Question:

Should the Kentucky Board of Education (KBE) appoint Mr. Vearl Pennington to fill the temporary vacancy on the Bath County Board of Education created by the September 15, 2011 suspension of William Boyd from the Bath County Board of Education?

History/Background:

Existing Policy. KRS 156.136 requires as follows:

The Kentucky Board of Education, upon suspension of any officer or district board of education member under KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the Kentucky Board of Education to fill vacancies under KRS 156.132 and this section shall hold office only during the time an officer is suspended, not to exceed ninety (90) days from the date of suspension.

Pursuant to KRS 156.132, the KBE suspended Bath County Board of Education member William Boyd, effective September 15, 2011, and the term of the suspension was set at ninety (90) days. The KBE is required by KRS 156.136 to select an individual for appointment to the local board of education position for the duration of Mr. Boyd's suspension.

The Commissioner also has local board member appointment authority under KRS 160.190 for vacancies due to death, resignation or removal. KRS 160.190 does not give the Commissioner authority to appoint temporary replacements due to suspension. That authority is solely vested in the KBE. In comparison, the Commissioner's appointment process takes approximately 90 days and includes advertising, candidate applications, interview of candidates by committee, committee recommendation to the commissioner and appointment. This specific process was created by the Commissioner and is not required by statute. This type of lengthy appointment process is not appropriate or practical for the filling of vacancies by the KBE for suspensions up

to 90 days under KRS 156.136. As a result, a more expedited process is required due to the short time-frame of the suspension and the need to have a full five-member board in place as soon as possible.

Ideally, candidates for temporary appointment should possess the following characteristics:

1. Basic knowledge of local board of education procedures and policies;
2. Familiarity with the subject-matter contained in local board member training provided by KSBA;
3. Preferred former service on a local board of education, in good standing; and
4. No former political confrontation with the suspended board member (had not run against suspended board member in a previous election).

Staff Recommendation(s) and Rationale(s):

Based upon these characteristics, staff recommends that the KBE consider, as the candidate for the replacement board member appointment, the last person who was a local board member in Bath County Division 5 who voluntarily left office at the end of his or her term and who did not run against Mr. Boyd. This would not include a former board member who sought re-election to an additional term but was defeated in an election. Our information is that the person that meets these characteristics is Mr. Vearl Pennington. Mr. Pennington is a former member of the Bath County Board of Education (Div. 5) who did not seek re-election immediately prior to the election of Mr. Boyd (Div. 5) to this office. As a result, Mr. Pennington has the most recent experience in serving on the board for Bath County Division 5 and thus meets the basic characteristics for a temporary appointment. KDE staff has contacted Mr. Pennington and he has tendered an application at our request (attached), and is willing to serve during this 90-day period. Mr. Pennington's criminal history check performed on September 29, 2011 also returned "no results" (attached). Staff therefore recommends that the KBE appoint Mr. Vearl Pennington to fulfill the temporary vacancy created by the suspension of Mr. Boyd.

Contact Person(s):

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Commissioner of Education

Date:

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